

Year of Tolerance: Lessons for the UAE Arbitration Community?

John Gaffney - Senior Counsel - Arbitration / Competition
- Abu Dhabi

Malak Nasreddine
m.nasreddine@tamimi.com - Abu Dhabi , UAE



Sheikh Khalifa bin Zayed Al Nahyan, President of the UAE, declared the year 2019 as 'The Year of Tolerance'. The Year of Tolerance emphasises tolerance as a universal concept and a sustainable institutional endeavor and expands the scope and opportunities for communication, respect, and openness amongst the diversity of cultures and nationalities in the UAE.

The UAE's Year of Tolerance is apposite for its highly diverse society, which hosts more than 200 nationalities (with only 11 percent of its population comprising UAE citizens). Diversity in the UAE includes ethnicity, race, culture, gender, age, religious beliefs, and socioeconomic status. The objectives of the Year of Tolerance thus include, amongst other things, building a tolerant society that believes in the importance of communication amongst different cultures, establishing values of tolerance, enabling tolerance in society through policies and legislation, and openness to others.

Tolerance and Diversity in the UAE

The Year of Tolerance and its focus on diversity builds on the UAE's efforts to promote the values of co-existence. The UAE has long promoted equality amongst different cultures and nationalities through international conventions that prohibit discrimination on the basis of race, gender or faith, including the 1974 International Convention on the Elimination of All Forms of Racial Discrimination, and the 2001 ILO Convention on the Prohibition of Discrimination in Employment and Occupations. The UAE also issued national legislation explicitly forbidding discrimination on the basis of someone's religion, belief, faith, race, colour, or ethnic origin (Federal Law No. 2 of 2015).

In addition, the UAE is a signatory to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and a number of international treaties protecting the rights of women, including the Convention on the Elimination of All Forms of Discrimination against Women 2004. Because of the foregoing, women are now playing an increasingly stronger role in business, military and government in the UAE. According to the World Economic Forum's 2018 Global Gender Gap Report, the UAE was ranked as a leading country in gender equality in the region in 2018, having closed 64 percent of

their overall gender gap.

The UAE also recognises that gender balance is a key performance indicator in achieving a cohesive society, and in supporting Vision 2021, which aims for a more diversified and knowledge-based economy. In 2017, the UAE Gender Balance Council and the Organization of Economic Cooperation and Development launched the Gender Balance Guide. The UAE Gender Balance Council was established in 2015 to improve the gender balance in the UAE as well as achieve empowerment and equal participation of both men and women in the workplace.

The Zayed Tolerance Pledge

Further, in line with the Year of Tolerance, the UAE introduced the Zayed Tolerance Pledge campaign. The Zayed Tolerance Pledge aims to promote the values of co-existence amongst diverse cultures and confirms the UAE's status as a global capital for tolerance. The Zayed Tolerance Pledge highlights diversity in the UAE and aims to create a society based on understanding, acceptance, and openness to different cultures. The Pledge includes the commitments to *"uphold the duty of tolerance"* and *"always stand up for these values: Zayed's values for tolerance and human fraternity."*

Tolerance and Diversity in Arbitration

In the past few years, diversity in international arbitration has featured as a key area of development. True diversity is not confined to gender; it includes ethnicity; race; colour; culture; geography; age; political beliefs; functional diversity; and socio-economic status. The inclusion of individuals of varied racial, ethnic, gender and social backgrounds in international arbitration ought only to enhance the legitimacy of the system.

Arbitrations often involve parties with different nationalities and cultures. Arbitral tribunals are the decision-making authorities in arbitration proceedings – thus, the importance of diversity across arbitral tribunals cannot be underestimated. There should be sufficient diversity so that parties are able to view the arbitral tribunal as representing a modern, creative, and diverse section of the business world. A diverse arbitral panel can provide a wider range of experiences and perspectives, and ultimately lead to better decision making.

The UAE Federal Arbitration Law (No. 6 of 2018) also promotes diversity in the arbitral selection process. The Arbitration Law does not require an arbitrator be a certain nationality unless otherwise agreed by the parties. In addition, the Law does not require an arbitrator be of a certain gender unless otherwise agreed by the parties. Women have an equal opportunity to be appointed as members of the tribunal.

Promoting Tolerance in the UAE Arbitration Community

It follows that all members of the UAE arbitration community can and should play a role in promoting tolerance and diversity in arbitration. It is incumbent on all involved – institutions, arbitral centres, arbitrators, counsel, experts, and indeed parties – to consider how they can help to contribute to the objectives of the Year of Tolerance. Just as the Equal Representation in Arbitration Pledge has had a beneficial impact in the international arbitration community, there is no reason why the Zayed Tolerance Pledge could not also have a positive impact on UAE arbitration through the promotion of the values it seeks to uphold. Amongst other things, the arbitral community could seek to bridge cultural divisions,

actively promote and support the appointment of female arbitrators, and educate individuals on the existence of unconscious bias in the arbitral selection process, all the while promoting the UAE as a model of arbitral diversity in its widest sense.

Al Tamimi & Company's arbitration team regularly advises on arbitration-related matters. For further information, please contact [John Gaffney \(j.gaffney@tamimi.com\)](mailto:j.gaffney@tamimi.com).